

The House Committee on Intragovernmental Coordination offers the following substitute to HB 558:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 36 of Title 36 of the Official Code of Georgia Annotated, relating to annexation of territory, so as to provide for deannexation by application of landowners and residents who were previously subject to annexation into a municipal corporation more than two years and less than five years prior to filing the application for deannexation; to provide for procedures, conditions, and limitations; to provide for facilities and services; to provide for bonded indebtedness in the event of a deannexation of property from a municipality; to provide for the assessment and collection of taxes; to provide for notice; to provide for public hearing and review and a recommendation; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 36 of Title 36 of the Official Code of Georgia Annotated, relating to annexation of territory, is amended by inserting new Code sections to read as follows:

"36-36-22.1.

(a) In addition to other methods of deannexation provided for by law, where lands have been annexed into a municipal corporation not less than two calendar years nor more than five calendar years from the date such annexation was final, the county governing authority shall have authority to deannex such lands by filing an application within such time period as provided in this Code Section using one of the following methods:

(1) Upon the written and signed application of all of the owners of all of the lands previously annexed and who are now requesting to be deannexed, except the owners of any public street, road, highway, or right of way; or

(2) Upon the written and signed application of not less than 60 percent of the electors residing in the previously annexed area included in any such application and of the

owners of not less than 60 percent of the previously annexed land area, by acreage, included in such application.

The procedures and limitations of this Code section shall apply to all deannexations pursuant to this Code section but shall not apply to deannexations by local Acts of the General Assembly or deannexations otherwise provided by law. No lands that have been annexed for five years or more shall be eligible for deannexation pursuant to this Code section.

(b) Applications for deannexation shall contain a complete description of the lands to be deannexed. In addition, a copy of a resolution by the governing authority of the county in which such property is located consenting to such deannexation shall also be included in the application.

(c) Deannexation pursuant to this Code section shall not result in the creation of an unincorporated island prohibited by Code Section 36-36-4 nor shall any deannexation result in a separation of the existing municipality such that a separate incorporated island is created. Deannexation shall only be permitted for contiguous areas as such term is defined in Code Section 36-36-20. Lands to be deannexed at any one time shall be treated as one body, regardless of the number of owners, and all parts shall be considered as adjoining the limits of the municipal corporation when any one part of the entire body abuts such limits. No deannexation may occur under this Code section which would result in the division of an existing designated subdivision without the consent of the municipal governing authority. For purposes of this subsection, 'subdivision' shall have the same meaning as provided in Code Section 44-3-2.

(d) Property that is included within the municipal boundaries of a newly incorporated municipality shall not be eligible for deannexation pursuant to this Code section.

(e) Where deannexation is conducted in accordance with paragraph (2) of subsection (a) of this Code section, the following additional procedures shall apply:

(1) Each person signing an application for deannexation shall also print or type thereon his or her name, address, and the date of signature. In addition, such person shall indicate whether he or she is a landowner within the area to be deannexed, an elector, or both;

(2) For the purpose of determining the percentage of electors signing such application, the county governing authority shall obtain a list of electors residing in such area from the board of registrars of the municipal corporation, county, or counties in which the area lies. The list shall be compiled by the board of registrars and provided to the county governing authority in accordance with Code Section 21-2-227. The county governing authority shall bear the expense of the preparation of the list in the manner prescribed by such Code section;

(3) For the purpose of determining ownership of the property included within such application, the record titleholder of the fee simple title or his or her legal representative shall be considered the owner of the property. Signatures of owners of public roads and other public land within the area to be deannexed shall not be required to satisfy the requirements of paragraph (2) of subsection (a) of this Code section, and the acreage of such public properties shall be excluded from acreage calculations pertaining to the landowner approval;

(4) The necessary number of signatures of landowners and electors shall be obtained within one calendar year following the date of the first signature obtained. Failure to collect the required number within the one-year period shall invalidate previously collected signatures. Nothing in this paragraph shall prohibit collection of signatures from the same persons on subsequent applications for deannexation. If it is determined that the application does comply with this paragraph, the county governing authority shall proceed to act on the application;

(5) A county exercising authority under paragraph (2) of subsection (a) of this Code section shall make plans for the extension of services to the area proposed to be deannexed and, prior to the public hearing provided for in this subsection, shall prepare a report setting forth its plans to provide services to the area. The report shall be made available to the public at least 14 days prior to the public hearing required by this subsection. The report required by this paragraph shall include:

(A) A map or maps of the county and adjacent territory, showing the present and proposed boundaries of the county, the present major trunk water mains and sewer interceptors and outfalls, and the proposed extensions of such mains and outfalls, if any; and

(B) A statement setting forth the plans of the county for extending to the area to be deannexed each major county service performed within the county at the time of deannexation.

The plans required by this paragraph shall, on the date of deannexation, provide for extending police protection, fire protection, garbage collection, and street maintenance services to the area to be deannexed on substantially the same basis and in the same manner as such services are provided within the rest of the county prior to deannexation to the extent such services are provided by the county; but, if a water distribution system is not available in the area to be deannexed, the plans shall call for reasonably effective fire protection services until such time as water lines are made available in the area under existing county policies for the extension of water lines; and

(6) The county governing body shall hold a public hearing on any application which has been determined to meet the requirements of this subsection. The hearing shall be held

not less than 15 nor more than 45 days from the time the governing body makes a determination that the petition is valid. Notice of the time and place of the hearing shall be given in writing to the persons presenting the application and shall be advertised once a week for two consecutive weeks immediately preceding the hearing in a newspaper of general circulation in the county and in the area proposed for deannexation. At the public hearing all persons residing or owning property in the county or in the area proposed for deannexation may be heard on the question of the deannexation of the area by the county. Any property owner or elector may withdraw his or her consent in writing postmarked or received by the county within three business days after the public hearing required by this paragraph. If, after the public hearing, the governing body determines that the deannexation to the county of the area proposed in the application would be in the best interest of the residents and property owners of the area proposed for deannexation and of the citizens of the county, the area may be deannexed to the county by the adoption of a deannexing resolution. The deannexing resolution shall be adopted within 60 days following validation of the signatures of the applicants.

(f) Upon receipt of an application of deannexation where deannexation is sought pursuant to paragraph (1) of subsection (a) of this Code section, or adoption of a deannexation resolution where deannexation is sought pursuant to paragraph (2) of subsection (a) of this Code section, a county shall notify the municipal corporation in which the territory to be deannexed is located by certified mail or by statutory overnight delivery. At the time such notice is made, the application for deannexation shall be considered filed for purposes of the time limitations set forth in subsection (a) of this Code section. Such notice shall include a copy of the deannexation petition and the proposed zoning and land use for such area. When a complete application is submitted to the municipal corporation, the land shall be deannexed from the municipal corporation effective for ad valorem tax purposes on December 31 of the year during which such application is submitted and for all other purposes on the first day of the next calendar quarter which begins at least one month after the month during which the requirements of this article have been met. Unless otherwise agreed to in writing by a county governing authority and the municipal governing authority, where property zoned and used for commercial purposes is deannexed from a municipality with an independent school system, the effective date for the purposes of ad valorem taxes levied for educational purposes shall be December 31 of the year after the year in which the requirements of this article have been met.

(g) An identification of the property so deannexed shall be filed with the Department of Community Affairs and with the governing authority of the municipal corporation. When deannexed pursuant to this Code section, such lands shall cease to constitute a part of the

lands within the corporate limits of the municipal corporation as completely and fully as if the limits had been marked and defined by local Act of the General Assembly.

(h) Nothing within this Code section shall prohibit the county from requiring the residents of the newly deannexed area to use utilities owned by the county when they are available.

(i) The governing authority of the county shall not change the zoning or land use plan of the deannexed property to a more intense density for one year after the effective date of the deannexation unless such change is made in a service delivery agreement or comprehensive plan and is adopted by the affected city and county.

(j) Property that has been deannexed from a municipal corporation pursuant to the provisions of this Code section shall not be annexed again until at least two calendar years after the date the deannexation of said property became effective unless annexation is conducted by local Act of the General Assembly or by mutual agreement of the municipal and county governing authorities.

36-36-22.2.

Whenever land is deannexed from a municipal corporation pursuant to Code Section 36-36-22.1, any bonded indebtedness of the municipality which is outstanding as of the effective date of the deannexation shall become the debt and obligation of a special tax district. The special tax district shall correspond to and be coterminous with the corporate limits of the municipality as of the effective date of the deannexation. The county shall provide for the assessment and collection of taxes within the special tax district in the same manner and to the same extent that such taxes were previously imposed by the municipality in accordance with the terms of the obligations of any bonded indebtedness of the municipality which is outstanding on the effective date of the deannexation."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.